

1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF TEXAS
 3 AUSTIN DIVISION

3 UNITED STATES OF AMERICA) Docket No. A 12-CR-210 SS
 4 vs.)
 5)
 6 JOSE TREVINO-MORALES (3))
 FRANCISCO ANTONIO)
 7 COLORADO-CESSA (6))
 FERNANDO SOLIS-GARCIA (7))
 EUSEVIO MALDONADO-HUITRON (11))
 JESUS MALDONADO-HUITRON (18)) May 9, 2013

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 9 TRANSCRIPT OF TRIAL ON THE MERITS
 10 BEFORE THE HONORABLE SAM SPARKS
 Volume 15 of 15

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25 Proceedings reported by computerized stenography, transcript
 produced by computer.

09:30:20 1 THE COURT: Mr. DeGeurin, I will not wait for you
09:30:22 2 again. Ten minutes is my rule. Ten minutes is my rule and the
09:30:26 3 jury has asked a question that's been 40 minutes now.

09:30:30 4 MR. DEGEURIN: I've been here 25 minutes.

09:30:32 5 THE COURT: Well, the marshals didn't know it. I
09:30:34 6 apologize. I've been sitting here waiting for you to appear in
09:30:37 7 the courtroom.

09:30:37 8 MR. DEGEURIN: Well, I have been here for 25 minutes.

09:30:39 9 MR. WOMACK: Your Honor, there are counsel missing.

09:30:39 10 THE CLERK: It's Esper and Mayr are not here.

09:30:41 11 MR. WOMACK: It's not Mr. DeGeurin. He was here with
09:30:43 12 the rest of us very timely.

09:30:45 13 THE COURT: All right. Well, I apologize.

09:30:47 14 MR. WOMACK: There are two that are missing. We can't
09:30:50 15 reach them.

09:30:50 16 MR. DEGEURIN: But I'll plead guilty.

09:30:53 17 MR. FINN: Take the fifth.

09:30:55 18 MR. DEGEURIN: No. I just wanted to correct you. I
09:30:57 19 didn't want that in the back of your mind I was here late because
09:31:00 20 I wasn't.

09:31:01 21 THE CLERK: He was here.

09:31:02 22 THE COURT: It was just misinformation, I guess.

09:31:06 23 THE CLERK: Esper and Mayr.

09:32:04 24 THE COURT: All right. Here's jury note No. 3. The
09:32:07 25 first two were just form ones indicating that Juror No. 1 is the

09:32:13 1 presiding juror.

09:32:15 2 The question is, are there other forms of reporting
09:32:18 3 that we need to be concerned with beyond the CTR and declarations
09:32:23 4 at the border?

09:32:27 5 My initial reaction is just to say no. But what says
09:32:32 6 the government?

09:32:32 7 MR. GARDNER: That would be -- we'd be in agreement
09:32:36 8 with that, your Honor. I think those are the only two in
09:32:38 9 evidence.

09:32:38 10 THE COURT: Well, you know, I should have modified that
09:32:41 11 instruction because the instruction that's approved said state or
09:32:47 12 federal, and that's the reason I didn't state that.

09:32:50 13 MR. FINN: Your Honor, respectfully, instead of saying
09:32:53 14 no, I would request that you simply say, members of the jury,
09:32:55 15 you've heard and seen all the evidence in this case and I've
09:32:58 16 given you the applicable law. Please continue your
09:33:01 17 deliberations.

09:33:01 18 THE COURT: Well, I do that frequently. But this is a
09:33:04 19 specific question and I don't think it -- unless anybody knows of
09:33:08 20 any other declaration, you don't want them to determine.

09:33:13 21 MR. FINN: You're right. Maybe you can combine the
09:33:17 22 two.

09:33:19 23 MR. WOMACK: Your Honor, on behalf of Mr. Garcia, we
09:33:20 24 agree with no.

09:33:24 25 MR. DEGEURIN: We, too.

09:33:25 1 THE COURT: Okay. Well, that's the way I'll respond.
09:34:41 2 If either of you two are late again, it will cost you
09:34:44 3 \$500 and then, you'll notice I'm not laughing.

09:35:23 4 All right. Counsel, to the answer of the question, are
09:35:27 5 there other forms of reporting that we need to be concerned with
09:35:30 6 beyond the CTR and declarations at the border, I will answer,
09:35:35 7 there are no, quote, forms of reporting, end quote, in this case
09:35:38 8 other than the CTR and declaration at the border.

09:35:44 9 Any objections from the government?

09:35:46 10 MR. GARDNER: None, your Honor.

09:35:47 11 THE COURT: From.

09:35:48 12 MR. WOMACK: No, your Honor.

09:35:50 13 MR. MAYR: No, your Honor.

09:35:51 14 MR. ESPER: No, sir.

09:35:51 15 MR. FINN: No objection, Judge.

09:35:53 16 THE COURT: All right. Counsel, we're going to have to
09:35:59 17 kind of stay handy because I expect other notes, and I don't want
09:36:03 18 to go 40 minutes between notes. It's not good for either side
09:36:07 19 nor the Court. All right.

15:44:01 20 (Recess.)

15:50:23 21 THE COURT: All right. I received a note from the
16:00:28 22 jury: We have a verdict, signed J1 at 3:36 p.m. Bring the jury
16:00:37 23 in.

16:00:38 24 (Jury present.)

16:00:42 25 VERDICT

16:02:35 1 THE COURT: Juror No. 12, have you reached a verdict?

16:02:39 2 THE JUROR: Yes, we have, your Honor.

16:02:41 3 THE COURT: Is it a unanimous verdict?

16:02:42 4 THE JUROR: Yes, it is.

16:02:42 5 THE COURT: And have you put your number down as

16:02:44 6 presiding juror?

16:02:45 7 THE JUROR: Yes.

16:02:46 8 THE COURT: Mrs. Sims will pick up the verdict.

16:03:16 9 I'll have the clerk read the verdict, answers only,

16:04:34 10 please.

16:04:36 11 THE CLERK: The verdict as to Defendant Jose

16:04:40 12 Trevino-Morales, guilty. 1A, yes. 1B, no. 1C, yes. 1D, no.

16:04:55 13 Verdict as to Defendant Francisco Antonio

16:04:59 14 Colorado-Cessa, guilty. Answer as to 2A, yes. 2B, no. 2C, yes.

16:05:13 15 2D, no.

16:05:16 16 Verdict as to Defendant Fernando Solis-Garcia, guilty.

16:05:24 17 Answer to 3A, yes. 3B, yes. 3C, yes. 3D, no.

16:05:35 18 Verdict as to Defendant Eusevio Maldonado-Huitron,

16:05:42 19 guilty. Answer to 4A, yes. 4B, no. 4C, no. 4D, no.

16:05:55 20 Verdict as to Defendant Jesus Maldonado-Huitron, not

16:06:03 21 guilty. Answer to 5 -- that's all. Sorry.

16:06:08 22 Signed Presiding Juror No. 1.

16:06:12 23 THE COURT: Let me see the verdict.

16:06:23 24 Does any defendant wish the jury polled?

16:06:25 25 MR. FINN: Yes, sir, individually, your Honor.

16:06:27 1 THE COURT: All right. Polling is a procedure that we
16:06:31 2 have. Mrs. Sims has just read a verdict, and then, she's going
16:06:36 3 to call your number. Juror No. 1, we'll start with. If the
16:06:41 4 verdict that she read is your verdict, just say "Yes." If it is
16:06:45 5 not, say "No."

16:06:46 6 THE CLERK: Juror No. 1, is this your true and correct
16:06:49 7 verdict?

16:06:50 8 THE JUROR: Yes.

16:06:51 9 THE CLERK: Juror No. 2, is this your true and correct
16:06:53 10 verdict?

16:06:53 11 THE JUROR: Yes.

16:06:55 12 THE CLERK: Juror No. 3, is this your true and correct
16:06:58 13 verdict?

16:06:59 14 THE JUROR: Yes.

16:06:59 15 THE CLERK: Juror No. 4, is this your true and correct
16:07:01 16 verdict?

16:07:01 17 THE JUROR: Yes.

16:07:02 18 THE CLERK: Juror No. 5, is this your true and correct
16:07:03 19 verdict?

16:07:04 20 THE JUROR: Yes.

16:07:05 21 THE CLERK: Juror No. 6, is this your true and correct
16:07:07 22 verdict?

16:07:07 23 THE JUROR: Yes.

16:07:08 24 THE CLERK: Juror No. 7, is this your true and correct
16:07:10 25 verdict?

16:07:10 1 THE JUROR: Yes.

16:07:11 2 THE CLERK: Juror No. 8, is this your true and correct

16:07:14 3 verdict?

16:07:14 4 THE JUROR: Yes.

16:07:14 5 THE CLERK: Juror No. 9, is this your true and correct

16:07:16 6 verdict?

16:07:16 7 THE JUROR: Yes.

16:07:17 8 THE CLERK: Juror No. 10, is this your true and correct

16:07:19 9 verdict?

16:07:20 10 THE JUROR: Yes.

16:07:21 11 THE CLERK: Juror No. 11, is this your true and correct

16:07:23 12 verdict?

16:07:23 13 THE JUROR: Yes.

16:07:24 14 THE CLERK: And Juror No. 12, is this your true and

16:07:26 15 correct verdict?

16:07:26 16 THE JUROR: Yes.

16:07:28 17 THE COURT: Members of the jury, this will conclude

16:07:32 18 your confidentiality. You're now free to talk or not to talk

16:07:36 19 with anybody about the case. Nobody's going to bother you. I've

16:07:41 20 been doing this for over 50 years now, and nobody in Texas has

16:07:45 21 ever bothered a jury to my knowledge, whether I was a lawyer or a

16:07:49 22 judge, or even heard about it. If you wish to talk about it,

16:07:54 23 it's the United States. You have the right to talk about it. If

16:07:57 24 you don't want to talk about it, all you have to do is say, "I

16:08:00 25 prefer not to talk about it," and that will end it. If anybody

16:08:05 1 asks you a second time, I work every day, just pick up the phone
16:08:09 2 and call me, and I will make sure nobody bothers you.

16:08:14 3 I have one more administrative duty for the jury as
16:08:18 4 well as the alternative members of the jury, who I also
16:08:21 5 appreciate. I'm going to put you all back in the jury room and
16:08:26 6 you'll complete that in just a few minutes, and then, you'll be
16:08:30 7 free again. All rise for the jury.

16:09:04 8 (Jury exits.)

16:09:10 9 THE COURT: Mr. Gardner, what's the position of the
16:09:17 10 government with regard to Fernando Solis-Garcia?

16:09:22 11 MR. GARDNER: Your Honor, the government requests Mr.
16:09:24 12 Garcia be taken into custody. He's not a U.S. citizen. He has
16:09:27 13 ties to Mexico and obviously ties to this organization.

16:09:29 14 THE COURT: Mr. Womack.

16:09:31 15 MR. WOMACK: Your Honor, Mr. Garcia lives in Mission,
16:09:34 16 Texas. He has complied in every way with Pretrial Services. We
16:09:36 17 ask that he be allowed to remain free on bond, pending
16:09:39 18 sentencing. He's not a flight risk and certainly not a danger.

16:09:42 19 THE COURT: And what's the government's position on
16:09:46 20 Eusevio Maldonado-Huitron?

16:09:46 21 MR. GARDNER: Your Honor, we'd also request the Court
16:09:48 22 take Mr. Eusevio Maldonado-Huitron into custody. I believe the
16:09:52 23 testimony shows that not only does he have ties to Mexico, he's a
16:09:55 24 Mexican citizen, but he also has property in Mexico.

16:09:58 25 THE COURT: Mr. Esper.

16:09:59 1 MR. ESPER: Your Honor, I think the -- Mr. Huitron's
16:10:02 2 reporting record demonstrates he's not a flight risk. He's known
16:10:07 3 the perils of this prosecution, the fact that he might be taken
16:10:11 4 into custody if convicted, I apprised him of that. He's been
16:10:14 5 here for every court appearance. He's been a resident of this
16:10:16 6 community for a number of years. And I do believe that he should
16:10:21 7 remain on bond, pending the sentencing certainly. I have all the
16:10:25 8 confidence that he will appear at sentencing in this court. I
16:10:29 9 don't believe he's a flight risk.

16:10:31 10 THE COURT: Well, it's the government's call and I'll
16:10:34 11 have Mr. Garcia and Mr. Huitron taken into custody.

16:10:40 12 And, Mr. Jesus Maldonado-Huitron, you're free to go,
16:10:46 13 sir.

16:10:47 14 MR. MAYR: Thank you, your Honor.

16:10:52 15 THE COURT: And we're in recess.

16 (End of proceedings.)

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UNITED STATES DISTRICT COURT)
WESTERN DISTRICT OF TEXAS)

I, LILY I. REZNIK, Official Court Reporter, United States District Court, Western District of Texas, do certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

WITNESS MY OFFICIAL HAND this the 21st day of August, 2013.

/s/Lily I. Reznik
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